

# **Court Fine Bill Senate Study Bill 3279**

Proposed Action:  
Senate Appropriations  
Committee

## **Executive Summary Only**

**An Act relating to the collection of delinquent debt owed the State and political subdivisions of the State by requiring offsets of gambling winnings, striking provisions related to county attorney collections, providing for liens against a decedent's estate, selling or writing off certain delinquent court debt, modifying provisions relating to the deposit of certain funds in the Jury and Witness Fee Fund, and making penalties applicable.**

**Fiscal Services Division  
Legislative Services Agency**

## **NOTES ON BILLS AND AMENDMENTS (NOBA)**

Available on line at <http://www3.legis.state.ia.us/noba/index.jsp>

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# EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

# SENATE STUDY BILL 3279 COURT FINE BILL

## FISCAL SUMMARY

- The fiscal impact assumes a six-month lag in implementation for the establishment and testing of the Racing and Gaming Offset Program and annual sale of debt program database development. The delay reduces estimated annual revenue by 50.0% for the first year. The fiscal impact also assumes the one-time sale of debt will occur in FY 2009 and will generate a minimum of \$4.4 million (3 cents on the dollar) and \$14.8 million (10 cents on the dollar). For purposes of the chart below, a midpoint of \$9.6 million is used. Senate Study Bill 3279 is estimated to generate additional revenue of approximately \$12.9 million for FY 2009 and \$6.8 million for FY 2010. Of these totals, approximately \$11.9 million will be deposited in the State General Fund for FY 2009 and \$4.8 million for FY 2010. The balance of \$1.0 million for FY 2009 and \$2.0 million for FY 2010 will be deposited in other funds. The following chart summarizes the estimated amount of revenue for State and local governments.

Total Estimated Revenue from SSB 3279 (in millions)		
	FY 2009	FY 2010
Racing and Gaming Offset Program		
State General Fund	\$ 1.6	\$ 3.2
Other Funds	1.0	2.0
County Attorney collections to State General Fund	0.7	0.7
Annual Sale of Debt Revenue	0.0	2.8
Jury and Witness Fee Revolving Fund	0.0	-1.9
Estimated one-time sale of debt (midpoint)	9.6	0.0
	<u>\$ 12.9</u>	<u>\$ 6.8</u>
State General Fund	\$ 11.9	\$ 4.8
Other Funds	1.0	2.0
Total	<u>\$ 12.9</u>	<u>\$ 6.8</u>
Other funds includes child support, unemployment, and college aid. The range for the estimated one-time sale of debt is a minimum of \$4.4 million (3 cents on the dollar) to a maximum of \$14.8 million (10 cents on the dollar). The midpoint of \$9.6 million is used in the chart.		

## FISCAL IMPACT OF THE RACING AND GAMING OFFSET PROGRAM

- According to the Department of Administrative Services (DAS), based on FY 2005 casino winnings by individuals, the Racing and Gaming Offset Program is estimated to generate approximately \$3.2 million in additional revenue for the General Fund and \$2.0 million in additional revenue for other funds such as child support, unemployment, and college aid. There would also be a minimal portion of the other funds that would include additional revenue for cities, counties, community colleges, and municipal utilities.

# EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

# SENATE STUDY BILL 3279 COURT FINE BILL

## FISCAL IMPACT OF THE RACING AND GAMING OFFSET PROGRAM (CONTINUED)

## FISCAL IMPACT OF THE SALE OF OUTSTANDING COURT DEBT

- Under current law, the Department of Administrative Services (DAS) charges and retains \$7 to the debtor for each offset held. The fee is used to cover all the expenses for the offset programs so no additional appropriations are necessary.
- The DAS estimates an additional one-time cost of \$50,000 for the technology enhancements to implement this Program. The DAS will need to work with the gaming industry to establish pilot programs before the project can be implemented statewide.
- Based on an analysis of W-2G forms (gambling winning statements), the Department of Revenue estimates that if the offset system had been in place during FY 2007, the amount that would have been collected was approximately \$5.0 million.
- Gambling revenues and potential offset revenues are assumed to increase at a rate of 1.3% per year.
- According to the Judicial Branch, there is currently \$476.0 million in outstanding court debt. Of this total, \$138.3 million is covered by some type of payment plan. Any portion of this debt that is owed by individuals in prison or in Community-Based Corrections (CBC) cannot be sold.

Total Aged Debt by Category		
	Amount	Percentage
Up to One Year Old	\$ 91,523,719	19.23%
Up to Two Years Old	59,433,973	12.49%
Up to Three Years Old	43,363,104	9.11%
Up to Four Years Old	40,852,123	8.58%
Up to Five Years Old	35,775,868	7.52%
Over Five Years Old	205,049,573	43.08%
	<u>\$ 475,998,360</u>	<u>100.00%</u>
NOTE: \$138.3 million of the \$476.0 million is covered under some type of payment plan.		

- According to the Justice Data Warehouse, from January 1, 1998, through December 31, 2007, there were 608,578 cases that represented \$171.4 million in fines, fees, penalties, and surcharges that were assigned to old debt and \$23.9 million was paid against that old debt. The remaining \$147.6 million in outstanding debt is eligible for sale. Assuming the debt will sell for no more than 3.0% to 10.0% of face value generates an estimated \$4.4 million to \$14.8 million.
- A substantial portion of the remaining \$190.1 million of debt is estimated to be greater than 10 years old. Some of this debt would be older than 65 years old and written off pursuant to the Bill, but the amount cannot be determined.

## EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

## SENATE STUDY BILL 3279 COURT FINE BILL

### FISCAL IMPACT FOR THE SALE OF OUTSTANDING COURT DEBT (CONTINUED)

### RACING AND GAMING OFFSET PROGRAM

- The average annual growth rate for Judicial Branch debt placements with the CCU in the Department of Revenue equals 7.65% and the average annual growth rate for debt collections equals 10.35%.
- The Department of Revenue estimates the collection rate is 10.0% or less for debt over two years old.
- Requires the Department of Administrative Services (DAS) to create and operate a Racing and Gaming Offset Program at casinos, riverboats, and racetracks for the collection of outstanding debt owed to the State of Iowa.
- Provides non-profit corporations licensed under Section 99D.9 and 99F.1, Code of Iowa, with electronic access to names and social security numbers of debtors of claimant agencies through a secured, interactive web site maintained by the State. This information is only to be used in the pursuit of debt collection duties and practices.
- The claimant agency will provide a list of names of all persons indebted to them or to a person on whose behalf the claimant agency is acting. The list will contain the names of the debtors, their social security numbers, and any other information that assists in identifying the debtors on the list. The list constitutes a valid lien against the winnings of the debtor on the list.
- If the debtor's winnings are in excess of \$600, meeting the minimum level for State income tax withholding (Section 422.16(1)(d), 2007 Iowa Code Supplement), the full amount of the debt is collectible from any winnings due the debtor.

### DEPARTMENT OF TRANSPORTATION PERSONAL INFORMATION

- Requires the Department of Transportation to provide personal information that identifies the social security number of a person to the Centralized Collection Unit of the Department of Revenue for the purpose of collecting debt deemed delinquent and the Department of Administrative Services for the purposes of administering the Racing and Gaming Offset Program. Both State agencies are required to maintain confidentiality and the information can only be used for the pursuit of debt collection duties and practices.

### COUNTY ATTORNEY INSTALLMENT PROGRAM

- Section 231.210A, Code of Iowa, requires the Department of Transportation (DOT) to suspend the driver's license of a person, upon conviction of violating a law regulating the operation of a motor vehicle, that has failed to pay the criminal fine or penalty, surcharge or court costs.
- If a person's fine, penalty, surcharge, or court cost is deemed delinquent and the person's driver's license has been suspended, the person may enter into an installment agreement with the county attorney or county attorney's designee. After entering into the installment agreement, the DOT will reinstate the person's driver's license.
- Requires the county attorney to file a list of installment agreement cases being pursued for the collection of outstanding court debt with the Clerk of District Court on the first day of each month.

## EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

## SENATE STUDY BILL 3279 COURT FINE BILL

### COUNTY ATTORNEY INSTALLMENT PROGRAM (CONTINUED)

- Under current law (Section 602.8107(4), Code of Iowa), a county attorney may collect delinquent debt and retain 35.0% of the amount collected for deposit in the county general fund; the State receives 65.0%. The current formula threshold for county attorney collections is \$1.2 million to the State General Fund. This represents the State's 65.0% share of the outstanding court debt collected. Once the threshold is met, the formula changes and the county retains 35.0%, the county attorney's office retains 33.0%, and the State's share is 32.0% (Section 602.8107(5), Code of Iowa).
- Removes the county attorney or county attorney's designee from participating in the collection of outstanding court debt, but does allow the continuation of collecting outstanding court debt through the installment agreements under Section 321.210B, Code of Iowa (County Attorney Driver's License Installment Program).
- FISCAL IMPACT: Removing the county attorney or county attorney's designee from participating in the collection of outstanding court debt will result in approximately \$700,000 in additional revenue to the General Fund. The following is a history of county attorney collections:
  - FY 2007 - \$702,000 of the \$2.0 million total
  - FY 2006 - \$647,000 of the \$1.8 million total
  - FY 2005 - \$606,000 of the \$1.7 million total

### CLERKS OF DISTRICT COURT

- Requires the Clerks of District Court to facilitate the collection of outstanding court debt.
- Payments are applied in the following order:
  1. Restitution
  2. Fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge.
  3. Crime Victim Compensation Program.
  4. Court costs, including correctional fees, court-appointed attorney fees, and public defender expenses. (Court debt is deemed delinquent if not paid within six months after the date assessed for inmates at correctional institutions or those under the supervision of a judicial district of correctional services. Any court debt of a person in prison or under Community-Based Corrections (CBC) supervision will not be sold.)

### LIENS

- Court debt is a charge against and a lien on estates subject to the provisions of Chapter 633, Code of Iowa, and all property of an estate or inherited by a decedent is subject to the charge or lien. Notice of the lien is not required to be recorded and notice of the claim is not required to be filed to preserve the claim.

## EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

## SENATE STUDY BILL 3279 COURT FINE BILL

### LIENS (CONTINUED)

### DEPARTMENT OF REVENUE

### SALE OF COURT DEBT

### JURY AND WITNESS FEE REVOLVING FUND

### WRITE OFF OLD DEBT

### REPORTS

### PRONOUNCEMENT OF JUDGMENT AND SENTENCE

### ONE-TIME SALE OF COURT DEBT

- Adds court debt to the list of obligations to be paid prior to closing an estate under Section 633.436, Code of Iowa.
- Thirty days after court debt has been assessed, or if an installment payment is not received within 30 days after the date it was due, and the county attorney has not filed a notice pursuant to Section 321.210B(1), Code of Iowa, the Judicial Branch will assign the case and unpaid court debt for collection, for a period of two years, to the Centralized Collection Unit of the Department of Revenue or its designee. Debtors are charged a 10.0% fee when the case is transferred to the Department.
- After two years, any uncollected court debt is reassigned to the Clerks of District Court and prepared for sale.
- The Judicial Branch will bundle and sell delinquent court debt to a private collection agency for collection on at least a quarterly basis.
- If the court debt is sold in a case, the Clerk of District Court will notice the court debt sold to be recorded and will enter a satisfaction by sale for the portions of the court debt sold.
- The first \$1.9 million collected from the sale of court debt during each fiscal year will be deposited in the Jury and Witness Fee Revolving Fund (Section 602.1302, Code of Iowa) to be used for the payment of jury and witness fees and mileage. After the \$1.9 million requirement has been met, the remaining amounts collected from the sale of the court debt will be deposited with the Treasurer of State for deposit in the State General Fund within 10 days of the sale.
- Any portion of the court debt in a case that remains uncollected after 65 years from the date of imposition, will be written off as uncollectible and the case file will be closed.
- On December 15 of each year, the Judicial Branch must submit a report of the aging of court debt to the Justice System Appropriations Subcommittee Co-Chairpersons and Ranking Members, the Legislative Services Agency, and the Department of Management. The report will include the number of “show cause” hearings held during a fiscal year for persons owing court debt and the number of warrants issued related to such hearings. The report will also include the amount of debt written off.
- Requires the defendant to submit their social security number to the Clerk of District Court to be recorded in the court file prior to the pronouncement of judgment and sentence or prior to pleading guilty for an offense that does not require a court appearance. The social security number will be considered a confidential record exempt from public access under Section 22.7, Code of Iowa.
- By September 1, 2008, all cases with delinquent court debt that are not being collected by the Centralized Collection Unit (CCU) of the Department of Revenue or being collected by county attorneys pursuant Section 321.210B, Code of Iowa, will be bundled by the Judicial Branch and sold to a private collection agency for collection.

## EXECUTIVE SUMMARY NOTES ON BILLS AND AMENDMENTS

## SENATE STUDY BILL 3279 COURT FINE BILL

### ONE-TIME SALE OF COURT DEBT (CONTINUED)

### FISCAL IMPACT ON THE JUDICIAL BRANCH

- The Judicial Branch has expressed concern that the September 1, 2008, deadline is too soon. The Judicial Branch anticipates a delay of eight to 10 months before the Program will be implemented. The Judicial Branch anticipates use of an RFP and bidding process, in addition to creating a delinquent debt database.
- The fiscal impact to the Judicial Branch is an estimated increase in expenditures of \$355,000, including \$249,000 and 4.0 FTE positions for full-time staff in the Personnel and Finance Office to prepare for the one-time and quarterly sale of debt. The Study Bill also requires one-time computer programming costs for the ICIS System totaling \$106,000.
- The Judicial Branch has identified the following sections of the Bill will result in increased operating costs:
  - Creates a new duty for the Clerks of Court to search for outstanding court debt by decedents in all estate case filings.
  - Requires the Judicial Branch to assign court debt to the CCU if not collected after 30 days. Currently, the ICIS system is programmed to send the debt to the CCU after 45 days.
  - Requires the Judicial Branch to bundle and sell delinquent court debt returned by the CCU on a quarterly basis. This will require increased time for the ICIS and Finance Office staff. (The Judicial Branch is not planning on searching files manually for this initiative. The Judicial Branch began phasing in ICIS in the largest counties in 1991 and completed implementation in 1998. The Judicial Branch has statewide data for all counties from 1998 forward.)
  - Requires the Judicial Branch to enter a notice in the ICIS database that the debt has been satisfied whenever the debt is sold.
  - Requires the Judicial Branch to write off debt older than 65 years old.
  - Requires statistical reporting on the number of “show cause” hearings.